

REMARKS

In response to the Office Action mailed September 9, 2004, Applicants amend their application. In this Amendment claim 30 is cancelled and claims 68 and 69 are added so that claims 29 and 31-69 are now pending.

Although no formality issues were raised in the Official Action, the claims have been thoroughly reviewed and minor errors have been corrected.

In this Amendment the examined independent claims have been amended in a similar way. These amendments are clearly supported by the application as filed. For example, the recitation concerning entering of a viewing confirmation code by a viewer each time that viewer confirmation code is presented by a program-providing principal is described, among other locations, in the paragraph beginning at page 30, line 25 and continuing through page 31, line 7 and in the paragraph beginning at page 3, in line 23 and continuing to page 4, line 9. The language referring to a comparison appearing at the end of amended claim 29 is supported by the description in the patent application in the paragraph beginning on page 12, line 27 and continuing through page 18, line 10.

The invention concerns a method, apparatus, and program for disseminating audiovisual programs to viewers, particularly for education of the viewers. In order that the viewers are properly credited for completion of programs, an important feature of the invention concerns the authentication of viewing by the viewers. This authentication is achieved, as described in the claims now presented, by requiring a response by the viewer each time a viewing confirmation code is presented to the viewer. That viewing confirmation code is presented by the principal that provides the audiovisual programs to the viewer. The claimed invention encompasses not only this method, but also audiovisual terminals incorporating this feature, and recording media storing programs, i.e., software, incorporating this feature. Of course, many of the claims include other features and it is the combination of elements of each of the claims that is the subject matter claimed.

Claims 29-31, 34, 36, 38, 43, 44, 50-54, and 65-67 were rejected as anticipated by Lemelson et al. (U.S. Patent 5, 832,788, hereinafter Lemelson). Claims 32, 33, 35, and 37 were rejected as unpatentable over Lemelson in view of official notice. These claims are all dependent claims. Claims 39-42, 45-49, and 55-64 were rejected as unpatentable over Lemelson in view of Vogel (U.S. Patent 5,453,015). These rejections are all respectfully traversed.

As examined, this Application included 13 independent claims and, after amendment includes 15 independent claims. If those independent claims are not properly rejected, then their respective dependent claims are likewise improperly rejected. Accordingly, the following

discussion concerning the prior art rejections focuses entirely upon the pending independent claims.

None of independent claims 29, 43, 50, 51, 53, and 65-67 can be anticipated by Lemelson because Lemelson does not disclose every limitation of each of these independent claims.

Lemelson describes a system for monitoring the progress of an ongoing lecture program and its effectiveness in educating the students who are participating in the process. In this system there is a colloquy between a teacher and the students, each of whom has a terminal for receiving questions and inputting answers to the questions. The answers are transmitted to the teacher who can evaluate, statistically, the accuracy of the responses and other information. However, there is no discussion in Lemelson that the teacher or anyone else can verify which students are actually paying attention and participating in the program. In other words, there is no description in Lemelson that provides for confirmation that a particular student or that all students are paying attention or answering questions that are being supplied through the terminals. Therefore, the basic function of the invention, providing verification of participation in a audiovisual program by a viewer, is not even conceived of in Lemelson. Accordingly, Lemelson cannot anticipate any pending claim.

Turning specifically to the claims rejected as anticipated, Applicants point out that there is no description in Lemelson of supplying a viewing confirmation code to a viewer. Rather, what is supplied to a student is a question from the teacher. In the invention, the viewer who is attentive inputs the code for transmission back to the program-providing principal to verify attentiveness. By contrast, in Lemelson, the viewer inputs an answer to a question, not a code such as a number or other kinds of characters. In the invention, what is input by the viewer is not an indication of the viewer's learning progress in the audiovisual program being viewed, but a repetition of a viewing confirmation code that contains no information as to whether the viewer has made any progress. Rather, the return code is only a neutral indicator of continuing attentiveness. Further, unlike the invention as defined in claim 29, Lemelson provides no comparison or provision for comparison of the timing of the code input as compared with time information as in that claim. Because of these two differences, Lemelson cannot anticipate claim 29.

With regard to claim 43, the same response applies. Further, claim 43 includes, as claim 29 does not, means for storing the viewing confirmation code received and the time information. Thus, because of the differences between Lemelson and claim 29, and this additional difference from claim 43, Lemelson cannot anticipate claim 43.

Claim 50 is directed to a system rather than the audiovisual terminal. That system includes means for storing the viewing confirmation code and one of two items, namely a time point corresponding to the viewing confirmation code and a time interval between receipt of time points at which the viewing confirmation code is received. This stored information permits determination as to whether a viewer is viewing a broadcast. As already noted, there is no technique in Lemelson for ensuring that a particular student is paying attention, much less by recording time points at which a viewing confirmation code is entered. Therefore, Lemelson cannot anticipate claim 50.

Claim 51 is directed to a method of authenticating viewing of an audiovisual program and is, in many ways, analogous to claim 29. Lemelson cannot possibly anticipate the method of claim 51 because does not describe any way of determining whether a viewer is actually viewing a particular program. Lemelson never even suggests making such a determination based upon the viewing confirmation code that is received at the base station and the time information that corresponds to that received viewing confirmation code. Further, Lemelson does not describe, as already mentioned with respect to claim 29, that the confirmation code is presented to a viewer at particular times specific to each audiovisual program, requiring the viewer to repeat, i.e., enter, each confirmation code as presented to verify attentiveness. Thus, claim 51 cannot be anticipated by Lemelson.

Claim 53 is likewise directed to a method of authenticating viewing. As in claim 29, claim 51, and other claims, in the method of claim 53, the confirmation code, which is not a question requiring a particular answer, but a code requiring its repetition by the viewer, is supplied to a viewer at a particular time that is specific to each audiovisual program being viewed. Then, when the code is input by the viewer and transmitted, the information transmitted can be reviewed to determine whether the viewer is attentive based upon the received information. As noted repeatedly, nothing similar is disclosed by Lemelson, preventing anticipation of claim 53.

Claims 65-67 are directed to recording media on which programs having the characteristics explained in those claims are stored. Claims 65 and 67 are analogous to claim 29 and claim 66 is analogous to claim 43. Those claims 65-67 are not anticipated by Lemelson for the reasons already presented with regard to claims 29 and 43. To reiterate, Lemelson lacks the feature requiring the entry of the viewing confirmation code by the viewer each time the viewer is presented with the viewing confirmation code, to supply information transmitted to an authentication principal to confirm the attentiveness of the viewer. Therefore, the rejection of these claims as anticipated should be withdrawn along with the withdrawal of the rejection of claims 29 and 43 as anticipated by Lemelson.

The foregoing remarks demonstrate that the independent claims discussed and their respective dependent claims, as well as those claims incorporating those independent claims cannot be anticipated by Lemelson. Thus, the foregoing comments dispose of the rejections of claims 29, 31, 38, 43, 44, 50-54, and 65-67. The rejection of claim 34 is legally erroneous because that claim depends from claim 33, a claim not rejected as anticipated by Lemelson. If claim 33 were so rejected, then the rejection would be erroneous for the reasons advanced with respect to the rejection of claim 29 which would, likewise, apply to claim 33.

Claims 32, 33, 35, and 37 were rejected as unpatentable over Lemelson in view of Official Notice. Even without traversing the Official Notice, it is apparent that these rejected claims are all dependent claims so that their rejection is founded upon the assertion that Lemelson anticipates their parent claim, claim 29. That assertion is incorrect for the reasons already supplied, particularly with respect to the claims presented here. Accordingly, the rejection of these dependent claims should be withdrawn.

Claims 39-42, 45-49, and 55-64 were rejected as unpatentable over Lemelson in view of Vogel. This rejection is respectfully traversed.

Of the claims in this group, only claims 55, 57, 59, and 63 are independent claims. Claims 39-42 all incorporate claim 29. Thus, as to these claims, the Examiner is relying upon Lemelson as disclosing all of the limitations of claim 29. As already pointed out, Lemelson does not meet the limitations of claim 29, particularly as that claim is presented here, so that the rejection based upon Lemelson in view of Vogel as to these claims fails upon the withdrawal of the rejection of claim 29. Therefore, further discussion of the rejection of these claims is not required nor supplied.

Claims 45-49 all incorporate claim 43. Thus, the rejection of this group of claims is founded upon the assertion that Lemelson anticipates claim 43. For the reasons previously presented, that rejection, if it had any vitality, can no longer be maintained. Accordingly, there is no necessity for further comment on the rejection of claims 45-49 and none is provided. The rejection of those claims should be withdrawn along with the withdrawal of the rejection of claim 43.

Claim 55 is an independent claim directed to a method of authenticating viewing of an audiovisual program similar to other claims that have been discussed. Again, viewing confirmation codes specific to a particular program are presented to a viewer at a time specific to a particular program and the viewer enters that viewer information code each time the code is presented. In the method of claim 55, the entry and its time of entry are submitted to the principal along with a secondary calculation of a time interval between the time of entry of the code for comparison to an expected interval. A determination is made as to whether the viewer

is attentive by comparing that time interval with the intervals of presenting the viewing confirmation codes. If a match is achieved within a specified range, i.e., tolerance, then viewing is authenticated. To the extent claim 55 mirrors claims rejected as anticipated by Lemelson, the claim is distinct from Lemelson because of the arguments already presented. Further, Vogel does not supply the parts of claim 55 that are missing from Lemelson. Specifically, Vogel does not disclose either the “receiving” step nor the “determining” step, steps that are clearly absent from Lemelson, leading to the citation of Vogel. Accordingly, *prima facie obviousness* has not been established with respect to claim 55 nor claim 56, which incorporates claim 55.

Claim 57 is directed to an authentication method similar to the method of claim 55 but including fewer steps. However the steps of claim 57 include the “receiving” and “determining” steps that are absent from both Lemelson and Vogel. For that reason, claim 57 cannot be obvious in view of the combined references. Likewise, claim 58, which incorporates claim 57, cannot be obvious in view of those publications.

Claim 59 is directed to still another method of authenticating viewing of an audiovisual program including many of the steps of claims 55 and 57, particularly the “receiving” and “determining” steps that, as already pointed out, are missing from both Lemelson and Vogel. Therefore, *prima facie obviousness* has not been established with respect to claim 59 nor claim 60, which incorporates claim 59.

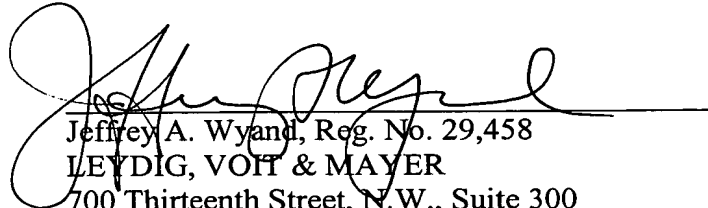
Claim 61 describes still another authentication method including many of the steps of the methods of claims 55, 57, and 59, including the “receiving” and “determining” steps that have, repeatedly, been pointed out as lacking in both of Lemelson and Vogel. Thus, the rejection of claim 61 and of claim 62, which incorporates claim 61, cannot properly be maintained.

Claim 63, likewise an independent claim directed to a method of authenticating viewing of an audiovisual program, and claim 64, which incorporates claim 63, cannot be obvious in view of the asserted combination of Lemelson and Vogel. While fewer steps are present in the method of claim 63 than in claims 55, 57, 59, and 61, claim 63 still includes the determining step that is clearly absent from both Lemelson and Vogel. Accordingly, the rejection of those two claims should be withdrawn.

In re Appln. of OHMAE et al.
Application No. 09/623,575

Since the foregoing amendments and remarks demonstrate that all claims now pending are patentable over the prior art applied in rejecting the claims, prompt issuance of a Notice of Allowance is earnestly solicited.

Respectfully submitted,



Jeffrey A. Wyand, Reg. No. 29,458
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

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